

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:12-cv-175-RJC**

RODNEY EUGENE JONES,

Petitioner,

vs.

**LAWRENCE PARSONS, Administrator,
Lanesboro Correctional Institution,**

Respondent.

ORDER

THIS MATTER comes before the Court on Petitioner's Motion for Order for Relief of Judgment and Order Granting Habeas Relief, (Doc. No. 20), Petitioner's Motion for Production of Case Files, (Doc. No. 21), and Petitioner's Motion for Writ of Mandamus, (Doc. No. 22). On January 23, 2013, this Court dismissed a petition filed by Petitioner under 28 U.S.C. § 2254 as untimely. The dismissal was based on Petitioner's own representations in his petition indicating that he did not file a notice of appeal on direct review of his conviction with the North Carolina Court of Appeals, and based on Respondent's assertion on summary judgment that he did not file an appeal. See (Doc. No. 1 at 2; Doc. No. 7 at 1). Petitioner now contends in the instant motion that his habeas petition is timely, based on his contention that he filed an appeal with the North Carolina Court of Appeals after his conviction, and that the time in which his appeal was pending should have been counted in determining whether he filed his § 2254 petition within the applicable one-year limitations period.

Based on Petitioner's assertions in his motion, the Court will order Respondent to file a brief in response to Petitioner's motion. Respondent shall address, specifically, Petitioner's

contentions in his instant motion that his petition was timely, as well as the arguments raised in his prior Amendment to Motion for Relief from Order and Clerk's Judgment, (Doc. No. 17).

IT IS, THEREFORE, ORDERED that:

1. Respondent shall have ten (10) days from service of this Order in which to file a brief in response to Petitioner's contention that his petition was timely.
2. The Clerk's Office is instructed to send copies to Petitioner of his original petition, as well as the Court's orders in docket numbers 13, 14, and 19. Petitioner contends that he previously received documents for another "Rodney Jones" who also has an action in this Court. The Clerk's office is instructed to ensure that Petitioner is mailed the documents in his action only. To this extent, Petitioner's Motion for Production of Case Files, (Doc. No. 21), is **GRANTED**. Furthermore, because the Court is ordering that the Clerk's office mail these documents to Petitioner, his related Motion for Writ of Mandamus, (Doc. No. 22), is **DENIED** as moot.

Signed: July 26, 2013



Robert J. Conrad, Jr.
United States District Judge

